GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – TWD – Appeal Petition filed by Smt. Gundeboina Kalavathi, D/o Gundeboina Narasimhulu, Occ: School Teacher, MPP School, Gopavaram Mandal, YSR District filed under Section 7 of the Act 16 of 1993 against the proceedings Rc.No.(C5)/232/M/2016, dated 31.08.2019 of the District Collector, YSR District cancelling her ST 'Chenchu' Community Certificate under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

TRIBAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No.14. Dated:21.02.2023
Read the following: -

1. Proceedings of the District Collector, YSR District, Rc.No.(C5)/716/M/2010, dated: 27.04.2012.
2. G.O.Ms.No.8, Tribal Welfare (CV.2) Dept., dt.19.01.2016.
3. Proceedings of the District Collector, YSR District, Rc.No.(C5)/232/M/2016, dated 31.08.2019.
4. Appeal Petition filed Sri Sri Gundeboina Muralidhar, S/o Gundeboina Subbaiah, before the Hon'ble Dy. CM, (TW) with Endt. No.145 on 08.11.2019.
5. Govt. Memo No.SW0CERT/138/CV.2/2019, dt.20.11.2019.
6. From the Collector & District Magistrate, YSR District, Lr.Ref.No.C5/232/M/2016, dated. 02.02.2020.
7. Govt. Memo No.SW0CERT/138/CV.2/2019, S.W.(TW.CV.2) Deptt., dated. 22.11.2020, 07.07.2021, 04.08.2021, 08.09.2021, 09.11.2021 & dt.22.11.2022.
8. Written arguments filed by the counsel for the appellant before the Government, dt.20.11.2021.

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ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, YSR Kadapa had issued orders cancelling the "ST-Chenchu" community certificate of Smt. Gundeboina Kalavathi, D/o Gundeboina Narasimhulu obtained from the then Tahsildar, Porumamilla, YSR Kadapa District in 1998.

2. In the reference 2nd read above, the Government had issued orders remanding the matter back to the Collector & District Magistrate, YSR Kadapa for fresh enquiry.

3. In the reference 3rd read above, the Collector & District Magistrate, YSR District after conducting fresh enquiry and as per the recommendations of DLSC, had cancelled the ST community certificate of the petitioner.

4. In the reference 4th read above, Smt. Gundeboina Kalavathi, D/o Gundeboina Narasimhulu has again filed Appeal Petition before the Government against the Proceedings of the District Collector, YSR Kadapa. After examining the said Appeal Petition, Government have admitted the same and granted stay on the proceedings of the District Collector, YSR Kadapa as prayed by the Appellant, and Para-wise remarks on the grounds filed by the Appellant along with connected records were called for from the District Collector in Govt. Memo 5th read above.

5. In the letter 6th read above, the District Collector, YSR Kadapa has furnished para-wise remarks on the Appeal Petition filed by Smt. Gundeboina Kalavathi, D/o Gundeboina Narasimhulu.

6. The said Appeal Petition has been posted for hearing before the Hon'ble Appellate Authority on several dates and finally on 26.11.2022 duly informing the same to the Appellant and the Counsel for the Appellant vide reference 7th read above. During the course of the hearing and on perusal of the records/ the copies of evidences/ academic record/ grounds & Written arguments filed by the Appellant/ Para-wise remarks submitted by the District Collector, YSR Kadapa and proceedings of the District Collector, YSR Kadapa, dated 31.08.2019, the Appellate authority has observed that;

- The present Appeal is filed by Smt. Gundeboina Kalavathi, D/o Gundeboina Narasimhulu under Section 7 of the A.P. (SC, ST& BCs) Regulation of Issue of Community Certificates Act 16 of 1993 against the proceedings issued in RC No. (C5/232/M/2016 dated 31-08-2019 by the District Collector, YSR District (1st respondent) cancelling the ST certificate issued to the Appellant as ST-Chenchu.

[Contd..on P.2]

- Whereas, one Smt. Kamini Prasanna D/o K. Venkateswarlu who complained to the District Collector, also approached this Appellate Authority, while submitting that the Appellant and other 8 members of Gundeboina family and their relatives who resided in Kammavaripalle H/o Rangasamudram(v), Porumamilla (M), YSR District fraudulently obtained certificate by the claimant as Chenchu ST certificate though the claimants belong to Balija(OC) caste and misusing it and requested to cancel the ST certificates issued to them. She represented that the related documents filed in Case No.134/CV2/2019. She filed the documents which were already referred by the District Collector in his proceedings.

- The main contention of the Appellant is that the Registered mortgaged deeds & sale deeds filed in relation to her family members are in respect of in pre and post independence period show their community status as Chenchu, the school records (1959-1962),voters list, land pass book, of the Appellant's family members, and the certificate issued to him by MRO, Porumamilla, on 21-03-1998, and certificate issued to family members show their caste as Chenchu, and also contends that no reasonable opportunity provided, and the impugned order was passed by the District Collector without following the provisions of Act and Rules and requested to set aside the order passed by the District Collector.

- After a thorough enquiry, the District Level Scrutiny Committee(DLSC) submitted its report to the District Collector. The Committee concluded that the Appellant here in does not belong to ST Chenchu but belongs to Balija(OC) caste and it has recommended the cancellation of the bogus community certificate obtained by the claimant.

- The District Collector issued show cause notice dated 29-9-2018 calling for the explanation on the report of the DLSC and submit any evidence in support of the caste claim as ST. The claimant submitted the explanation on 29-09-2018 in the form of a booklet in support of her claim.

- The District Collector based on the material records, including the preliminary report of Tahsildar, Porumamilla(M) and the findings of the District Level Scrutiny Committee(DLSC) which show that fore fathers of individuals & relatives 1) Gunduboina Subbamma, 2) Dr.Gunduboina Muralidhar, 3) Smt. Gunduboina Radha Krishanaveni 4) Smt. Gunduboina Kalavathi, 5) Smt. Gunduboina Madhavi, 6) Gunduboina Venkata Lakshumma 7) Gunduboina Chalapathi, 8) Sri Pulivendula Venkata Swamy and 9) Sri Pasupuleti Venkateswaralu, are the natives of Kammavaripalli, earlier they were the natives of Mekavaripalli(V), B.Kodur (M) which are not the traditional habitat of Chenchu tribes, the surnames are un common among the Cenchu tribe, and their lifestyle, customs, traditions are not in tune with the Chenchu tribe, and further the report of Tribal Culture Research &Training Institute, Tribal Welfare Department, Govt. of AP which says that there is no Chenchu tribe in YSR District, and the Chenchu tribes are exogamous clans which are pre fixed of their name line Mandli, Chigurla etc and there is high incidence of false cases on the name of Chenchu from Kammavaripalli Village, Porumamilla (M) and for last 3 to 4 generations these people intermingled with different caste people and claiming as ST Chenchu and comparative study shows that the Chenchus and Claimant of Chenchu are distinct communities socially, culturally and the surname like Gundeboina, Pulivendula, Pasupuleti etc residing in Kammavaripalli(v) was recorded as 'Balija"/Dasari in majority of the cases and the claimant has no relationship with the ST-Chenchu and the documentary evidence also show that the claimant belongs to Balija/Dasari caste which is not notified as ST, and finally passed an order cancelling the ST Certificate issued bearing No.09929 dated 07-05-1998 to Smt. Gundeboina Kalavathi(Appellant here in), while declaring her to be a member of Balija(OC) community under the A.P. State SC, ST & BCs (Issue of Community, Nativity, and Date of Birth Certificate) Rules, 1997 read with the Act 16 of 1993 while disbelieving the contention of the claimant.

- On verification of the records, it is found that the District Collector did not alone rely on the affinity test as claimed by the Appellant to determine the caste status of the Appellant. The District Collector also placed a reliance on an elaborate field based study report of Tribal Culture & Training Institute (TCR&TI)/ an expert agency, Govt. of AP, which collected the pre independence period birth registers of the surname/Gundeboina and other land deeds (1958-1969) which are running counter to the claim of the individual as ST-Chenchu and proving that the claimant belongs to Bailija(OC) caste.

[Contd..on P.3]

- The Rule 5 (g) of Rules, 1997, provides an importance for verification of the claims in respect of the tribal communities who are not "traditional inhabitants" of the area of territorial jurisdiction of the "Competent Authority". And the finding in this aspect given by the TCR&TI gains importance either in respect of confirming or rejecting the claim of the individual, as per the said rules. The TCR&TI collected a lot of clinching documentary evidence and filed information which is against the claim of the Appellant as ST. There is no infirmity in the findings of the DLSC and the District Collector in this case.

- Therefore, the ruling of the Hon'ble SC (Anand Vs. Committee for Scrutiny and Verification of Tribe Claims) cited by the Appellant in support of the claim, on the point of evidentiary value of the affinity test as well as pre independence era documents, is not relevant to the facts and circumstances of the case.

- Under section 6 of the Act the burden lies on the person to prove that he or she belongs to such caste, Tribe or Class in support of which the community certificate was issued in his or her favour. The Hon'ble Supreme Court, in Anand Vs. Committee for Scrutiny and Verification of Tribe Claims, on 8 November, 2011, observed that "Needless to add that the burden of proving the caste claim is upon the applicant. He has to produce all the requisite documents in support of his claim. The Caste Scrutiny Committee merely performs the role of verification of the claim and therefore, can only scrutinize the documents and material produced by the applicant. In case, the material produced by the applicant does not prove his claim, the Committee cannot gather evidence on its own to prove or disprove her claim".

- In the present case, the Appellant failed to discharge the statutory burden placed on her to show that she belongs to a notified ST-Chenchu.

- A perusal of the order of the District Collector which clearly shows that the impugned order was passed after giving reasonable opportunity to the claimant to prove her claim as ST-Chenchu. The Appellant also failed to establish that prejudice was caused to her in the process of enquiry held in the matter, depriving the principles of natural justice. Therefore, there is no merit in the contention of the Appellant that no opportunity was given to prove his case.

- Once it is evident from the documentary and other material available on record, that the Appellant did not belong to ST-Chencu and belong to Balija (OC), allowing her to continue to enjoy benefits legally meant only to the members of STs, would be against the Constitution. Hence the Appeal is hereby dismissed. As a sequel, interim orders passed in the matter are hereby vacated.

7. Government after careful examination of the appeal petition and the circumstances stated supra and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, decide that the appeal petition filed by Smt. Gundeboina Kalavathi, D/o Gundeboina Narasimhulu does not deserve any interference. Hence, the proceedings in Rc.No.(C5)/232/M/2016, dated 31.08.2019 of the District Collector, YSR District is hereby upheld and the appeal petition filed Smt. Gundeboina Kalavathi, is hereby dismissed. The certificate issued by the then M.R.O, Porumamilla, deemed to be cancelled and the interim stay granted earlier stands vacated.

8. The Collector & District Magistrate, YSR Kadapa is directed to take necessary consequential action in the matter, as per the A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made therein.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, YSR Kadapa District.

Smt. Gundeboina Kalavathi, D/o Gundeboina Narasimhulu,
Occ: School Teacher, MPP School,
Gopavaram Mandal, YSR Kadapa District. .

[Contd..on P.4]

Sri C.V.S.S. Sarma, Advocate,
1-2-212/6, Plot No.881, Street No.12,
Opp: Bachpan School, Domalaguda, Hyderabad-500 029.

Smt. K. Prasanna, D/o K. Venkateswarlu
H.No.2-343/9-10, Sri Sai Sadan Building,
Sankar Math Road, Thirumalanagar, Adoni, Kurnool Dist.

Copy to:

The District Educational Officer(DEO), YSR Kadapa District.

The OSD to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER